

# **HOUSE . . . . . No. 3991**

---

---

## **The Commonwealth of Massachusetts**

---



**EXECUTIVE DEPARTMENT**  
STATE HOUSE • BOSTON 02133  
(617) 725-4000

DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LIEUTENANT GOVERNOR

April 12, 2007.

To the Honorable Senate and House of Representatives:

I am filing for your consideration the attached legislative proposal entitled, "An Act to Reduce Gun Violence."

The Commonwealth faces significant challenges in stopping gun violence, which often is fueled by the sale and use of illegal guns in our streets, communities and cities. Gun violence claims lives and causes immeasurable pain to the families of victims. Illegal firearms flow into the Commonwealth and end up in the hands of felons and young people. Moreover, gangs threaten the safety and security of many neighborhoods, creating a climate of fear that jeopardizes efforts by police, prosecutors, and social service providers to keep our citizens safe. We simply cannot allow the spiraling violence to continue in the Commonwealth.

Accordingly, this legislation enhances the prohibitions on the sale of illegal guns and initiates the process of ending gun violence in the Commonwealth in three ways. First, this legislation shrinks the supply of illegal guns, by limiting gun buyers to one firearm purchase per month, reducing gun trafficking by "straw purchasers" who purchase firearms for prohibited buyers. Second, this bill empowers prosecutors to charge and judges to sentence those who possess a firearm during a crime of violence with tougher penalties. Finally, this legislation recognizes the danger that guns pose to the public by making defendants charged with possession of a firearm eligible for detention pending trial and those charged with a felony involving

the use of a firearm and the use of physical force presumptively ineligible for bail pending trial.

I urge your prompt and favorable consideration of this legislation

Respectfully submitted,



DEVAL L. PATRICK,  
*Governor.*

## The Commonwealth of Massachusetts

---

In the Year Two Thousand and Seven.

---

### AN ACT TO REDUCE GUN VIOLENCE.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1     SECTION 1. Section 10 of chapter 66 of the General Laws, as  
2 appearing in the 2004 Official Edition, is hereby amended by inserting  
3 after the word “request”, in line 62, the following words:— , but the  
4 executive director of the criminal history systems board, or his agent,  
5 may disclose records pertaining to persons who own or possess rifles,  
6 shotguns, firearms, machine guns, large capacity weapons or large  
7 capacity feeding devices, as defined in section 121 of chapter 140, to  
8 licensees under section 122 of chapter 140 to comply with section  
9 131E of chapter 140.

1     SECTION 2. The second paragraph of section 123 of chapter 140  
2 of the General Laws, as so appearing, is hereby amended by  
3 inserting after the first sentence the following sentence:— No person  
4 licensed under section 122 shall sell, rent or lease, to another person,  
5 other than to an exempt person under subsection (c) of section 131E,  
6 more than 1 rifle, shotgun, firearm, machine gun, large capacity  
7 weapon or large capacity feeding device in any 30-day period.

1     SECTION 3. Section 128A of chapter 140 of the General Laws,  
2 as so appearing, is hereby amended by adding the following 2 sen-  
3 tences:— Any sale or transfer conducted under this section shall  
4 comply with section 131E and shall take place at the location of a  
5 dealer licensed under section 122, who shall transmit the informa-  
6 tion required by this section for the purchases and sales by utilizing  
7 the electronic verification link established by the executive director  
8 of the criminal history systems board. A licensed dealer may charge  
9 the seller a fee not to exceed \$25 for each sale or transfer electroni-

10 cally submitted on behalf of the seller to the criminal history systems  
11 board.

1 SECTION 4. Section 131E of chapter 140 of the General Laws,  
2 as so appearing, is hereby amended by inserting after subsection (b)  
3 the following subsection:—

4 (c) No person, other than an exempt person as defined in this sub-  
5 section shall purchase, rent or lease more than 1 rifle, shotgun,  
6 firearm, machine gun, large capacity weapon or large capacity  
7 feeding device in any 30-day period.

8 This subsection shall not apply to the following persons and uses:  
9 (1) any law enforcement agency or authority;

10 (2) any branch of the United States military, including the  
11 National Guard;

12 (3) any persons in any branch of the United States military, police  
13 officers or other peace officers who are acquiring firearms for the  
14 purposes of performing their official duties or when duly authorized  
15 by their employer to purchase them;

16 (4) any licensed watch, guard or patrol agency or their licensed  
17 employees for the purposes of performing duties in the course of  
18 employment under sections 22 and 25 of chapter 147;

19 (5) a federal, state or local historical society, museum or institu-  
20 tional collector open to the public;

21 (6) any person who purchases, rents or leases a rifle, shotgun,  
22 firearm, machine gun, large capacity weapon or large capacity  
23 feeding device and then exchanges it for another rifle, shotgun,  
24 firearm, machine gun, large capacity weapon or large capacity  
25 feeding device provided by a licensed dealer within a 30-day period;  
26 and

27 (7) a firearms surrender program authorized by and in compliance  
28 with section 131O.

29 Upon receipt of a record of a sale, rental or lease of a rifle,  
30 shotgun, firearm, machine gun, large capacity weapon or large  
31 capacity feeding device from a licensee as required under section  
32 123 or a person without a license under section 128A, the executive  
33 director of the criminal history systems board, or his agent, shall  
34 determine whether a person has purchased, rented or leased more  
35 than 1 rifle, shotgun, firearm, machine gun, large capacity weapon or  
36 large capacity feeding device in any 30-day period in violation of

37 this subsection. If a person has purchased, rented or leased in violation  
38 of this subsection, the executive director of the criminal history  
39 systems board, or his agent, shall forward any records demonstrating  
40 the relevant acquisition history to the colonel of the state police or  
41 his agent, the prosecutor, and the chief of police in the city or town  
42 in which the person resides or where the second rifle, shotgun,  
43 firearm, machine gun, large capacity weapon or large capacity  
44 feeding device was obtained in violation of this subsection.

45 A non-exempt person who purchases, rents or leases more than 1  
46 rifle, shotgun, firearm, machine gun, large capacity weapon or large  
47 capacity feeding device in any 30-day period shall be punished by a  
48 fine of not more than \$1,000, or by imprisonment for not more than  
49 2 ½ years, or both, for a first offense; and for any subsequent offense  
50 shall be punished by a fine of not less than \$1,000 and not more than  
51 \$5,000, or by imprisonment for not more than 2 ½ years in a house  
52 of correction or not more than 5 years in the state prison, or by both  
53 such fine and imprisonment.

54 Any licensed dealer under section 122 or any other individual  
55 who sells, rents or leases a rifle, shotgun, firearm, machine gun,  
56 large capacity weapon or large capacity feeding device to a non-  
57 exempt person under this section, having sold, rented or leased a  
58 rifle, shotgun, firearm, machine gun, large capacity weapon or large  
59 capacity feeding device to the person within the previous 30 days or  
60 with actual knowledge that the person has purchased, rented or  
61 leased a rifle, shotgun, firearm, machine gun, large capacity weapon  
62 or large capacity feeding device within the previous 30 days, shall be  
63 punished by a fine of not more than \$5,000, or by imprisonment of  
64 not more than 2 ½ years, or both, for a first offense; and for any  
65 subsequent offense shall be punished by a fine of not less than  
66 \$1,000 and not more than \$10,000, or by imprisonment for not more  
67 than 2 ½ years in a house of correction or not more than 5 years in  
68 the state prison, or by both such fine and imprisonment.

1 SECTION 5. Chapter 265 of the General Laws, as so appearing,  
2 is hereby amended by inserting after section 18C the following  
3 section:—

4 Section 18D. Use of a firearm while committing a violent misde-  
5 meanor; punishment

6     Whoever, while in the commission or attempted commission of a  
7     misdemeanor that has as an element the use, attempted use, or  
8     threatened use of physical force against the person of another, has in  
9     his possession or under his control a firearm, rifle, or shotgun, shall,  
10    in addition to the penalty for such offense, be punished by imprison-  
11    ment in the state prison for not more than 10 years, or in the house  
12    of correction for not more than 2 ½ years, or by a fine of not more  
13    than \$5,000, or by both such fine and imprisonment.

1     SECTION 6. Subsection (1) of Section 58A of chapter 276 of the  
2     General Laws, as so appearing, is hereby amended by inserting after  
3     the words “ninety-four C,”, in line 17, the following words:- or any  
4     violation of paragraphs (a), (c), or (h) of section 10 of Chapter 269,  
5     or.

1     SECTION 7. Subsection (3) of said section 58A of said chapter  
2     276, as so appearing, is hereby further amended by inserting after  
3     the first sentence the following sentence:- Subject to rebuttal by the  
4     person, in a case involving any felony offense that has as an element  
5     the use, attempted use, or threatened use of physical force against  
6     the person of another and involves the use of a firearm, it shall be  
7     presumed that no condition or combination of conditions will rea-  
8     sonably assure the safety of any other person or the community if  
9     the judicial officer finds that there is probable cause to believe that  
10    the person committed the offense.